

REMARKS

In response to the Restriction/Election Requirement, Applicants have elected group VIII (claims 49-60, 63-75, 79, 80, 90 and 95-98) without traverse. The Examiner determined that claims 15, 16, 23, 24, 61, 62 and 76-78 could not be placed in a group because certain sequence identifiers were not correct. The claims have been amended accordingly. In making the amendments, Applicants assumed that claims 61, 62 and 76-78 would be placed by the Examiner in the elected group VIII.

Claims 1-48, 51-54, 65-68, 79, 81-89, 91-94, 96 and 99-120 have been canceled herein without prejudice. Applicants respectfully reserve the right to file one or more continuation and/or divisional applications with claims directed to the subject matter encompassed by the canceled claims.

Claims 49, 50, 55-64, 73, 76-78, 80, 90 and 97 have been amended. The amendments herein are not to be interpreted as a surrender of any subject matter originally encompassed by the claims. Claim 49 has been amended to recite that the isolated toxin is active against European corn borer. Support for this amendment can be found throughout the specification and in original claim 80. Claims 49, 50, 55-64 and 73 have been amended to make the claim language more clear. Claims 59, 61, 62, 73 and 76-78 have been amended to indicate the correct sequence identifier.

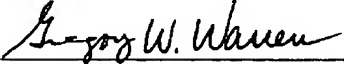
Thus, no new matter has been added by any of the amendments. After entry of this amendment claims 49, 50, 55-64, 69-78, 80, 90 and 95-98 will be pending, assuming the Examiner places claims 61, 62 and 76-78 in elected group VII.

CONCLUSION

Applicants respectfully submit that the pending claims are in condition for allowance.
Applicants respectfully solicit a Notice of Allowance to the effect.
Should the Examiner wish to discuss any outstanding matter, the Examiner is invited to telephone the undersigned agent.

Respectfully submitted,

Syngenta Biotechnology Inc.
Patent Department
P.O. Box 12257
Research Triangle Park, NC 27709-2257


Gregory W. Warren
Agent for Applicants
Reg. No. 48,385
Phone: (919) 541-8646

Date: November 10, 2006